IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3798 OF 2005

M/s.Kartikeya Creations & Ors. ..Applicants

Vs.

The State & Ors. ..Respondents

...

Mr.V.R.Tawade with Mr.Swarup Tawade Advocate for Applicants
Ms.S.V.Gajare, A.P.P. for the State

...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : JUNE 23,2005

P.C.

1. Heard the learned advocate for the applicants and the learned A.P.P. for the State. Leave to amend granted. Amendment to be carried out forthwith.

2. The applicants are seeking quashing of proceedings relating to Complaint No. 4320/SS/2005 pending before the Metropolitan Magistrate 28th Court, Esplanade, Mumbai. In the said case process

has been against the applicants under Section 138 of Negotiable Instruments Act. If the process issued against the applicants, is set aside, the proceedings in respect of the applicants would come to an end. The learned advocate for the applicants submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside.

3. For the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of 2005, in my view, it is clear that the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicants prefer a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer the necessary revision before the concerned Sessions Court. On the necessary revision being preferred by the applicants before the concerned

Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

5. The learned advocate for the applicants prays that non-bailable warrants which have been issued against the applicants on 12.5.2005 by the trial Court, be quashed. In my view, it would be appropriate that the applicants prefer an application before the trial Court for setting aside the said warrants, hence, I am not inclined to quash the said warrants. However, non-bailable warrants are stayed upto 24.8.2005 to enable the applicants to prefer necessary application for setting aside the non-bailable warrants before the trial Court.

6. Criminal Application is disposed of.

[V.K.TAHILRAMANI,J.]